

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MARK EDWARD HILL,) CIVIL NO. 08-00536 HG-KSC
vs. Plaintiff,)
vs.) FINDINGS AND RECOMMENDATION TO
STATE OF WASHINGTON,) (1) GRANT PLAINTIFF'S MOTION
Defendant.) TO PROCEED WITHOUT PREPAYMENT
) OF FEES (Doc. No. 17) AND (2)
) DISMISS PLAINTIFF'S COMPLAINT
) WITHOUT PREJUDICE AND GRANT
) LEAVE TO FILE AN AMENDED
) COMPLAINT
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FINDINGS AND RECOMMENDATION TO (1) GRANT PLAINTIFF'S MOTION TO
PROCEED WITHOUT PREPAYMENT OF FEES (Doc. No. 17) AND (2) DISMISS
PLAINTIFF'S COMPLAINT WITHOUT PREJUDICE AND GRANT LEAVE TO FILE
AN AMENDED COMPLAINT

I. INTRODUCTION

On March 13, 2009, this Court ordered Plaintiff Mark Edward Hill to either file an *in forma pauperis* application or appear before the Court and explain why the Court should not dismiss his case for failure to pay the required civil filing fee. Hill submitted a completed *in forma pauperis* application on March 27, 2009. After reviewing the application and screening his complaint as required by 28 U.S.C. § 1915, the Court recommends that the district court GRANT Hill leave to proceed *in forma pauperis* and DISMISS his complaint without prejudice and GRANT Hill leave to amend.

II. DISCUSSION

A. The District Court Should Grant Hill's In Forma Pauperis Application.

The Court may permit an indigent civil litigant to commence an action without prepayment of fees. 28 U.S.C. § 1915(a)(1). Hill has submitted an affidavit stating that he is currently unemployed, has no steady income, and has \$26 in a checking or savings account. The Court finds that Hill has made the showing required by 28 U.S.C. § 1915 to proceed *in forma pauperis*. Accordingly, the Court recommends that the district court GRANT Hill's *in forma pauperis* application.

B. The District Court Should Dismiss Hill's Complaint Without Prejudice and Grant Leave to Amend.

The Court must screen each action initiated pursuant to 28 U.S.C. § 1915(a) to determine whether the action is frivolous or malicious; fails to state a claim on which relief may be granted; or seeks monetary relief against an immune defendant. 28 U.S.C. § 1915(e)(2)(B); Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) ("[S]ection 1915(e) not only permits but requires a district court to dismiss an *in forma pauperis* complaint that fails to state a claim.").

Hill's Complaint is incomprehensible. No viable legal theory or basis for subject matter jurisdiction is stated. The Complaint does not include "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a). Accordingly, the Court recommends that the

district court dismiss it pursuant to 28 U.S.C. § 1915. See *Denton v. Hernandez*, 504 U.S. 25, 32 (1992) ("[T]he *in forma pauperis* statute . . . accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless. Examples of the latter class . . . are claims describing fantastic or delusional scenarios") (internal quotation marks, citations omitted). The Court recommends that the district court grant Hill leave to amend his Complaint no later than thirty days from the district court's adoption of this Findings and Recommendation. In any Amended Complaint, Hill should clearly state the relief he is seeking, as well as allege the factual basis demonstrating that he is entitled to relief.

III. CONCLUSION

IT IS SO FOUND AND RECOMMENDED.

Dated: Honolulu, Hawaii, May 21, 2009.



Kevin S.C. Chang

United States Magistrate Judge

CIVIL NO. 08-00536 HG-KSC; HILL V. STATE OF WASHINGTON; FINDINGS AND RECOMMENDATION TO (1) GRANT PLAINTIFF'S MOTION TO PROCEED WITHOUT PREPAYMENT OF FEES (Doc. No. 17) AND (2) DISMISS PLAINTIFF'S COMPLAINT WITHOUT PREJUDICE AND GRANT LEAVE TO FILE AN AMENDED COMPLAINT